

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**RETAIL READY CAREER CENTER,  
INC.**

**Plaintiff,**

**v.**

**UNITED STATES OF AMERICA, AND  
MIGUEL COIAS**

**Defendants.**

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**CIVIL ACTION NO. \_\_\_\_\_**

**PLAINTIFF RETAIL READY CAREER CENTER, INC.'S  
ORIGINAL COMPLAINT AND JURY DEMAND**

Plaintiff Retail Ready Career Center, Inc. ("RRCC" or "Plaintiff") files this Original Complaint and Jury Demand, as follows:

**I.  
PRELIMINARY STATEMENT**

1. King George's misuse of civil forfeiture was a cause of the American Revolution. What was once the prerogative of kings has become a tool of petty tyrants. At the beginning of September 2017, Retail Ready Career Center, Inc. operated a school valued in the hundreds of millions of dollars with an excellent compliance history and thousands of proud graduates—most of whom were veterans. That was about to change.

2. Based on the secret and false testimony of one man, Miguel Coias, Plaintiff's business was about to be destroyed. On September 20, 2017, agents of the United States used fraudulently obtained warrants to raid Plaintiff's school and seize all of Plaintiff's funds and other property. Nearly two years later, the Government is still unconstitutionally and unlawfully holding Plaintiff's property. By initiating and continuing a bogus criminal investigation and baseless civil forfeiture proceeding, the Government has escaped scrutiny and accountability for its misdeeds. That is about to change.

## **II. PARTIES**

### **A. Plaintiff**

3. Plaintiff Retail Ready Career Center, Inc. is a Delaware corporation with a principal place of business in Dallas County, Texas.

### **B. Defendants**

4. The United States of America is a republic that purports to be governed by the Constitution and the rule of law, although there is little evidence of that in the context of civil forfeitures. The United States of America may be served with a summons in accordance with Federal Rule of Civil Procedure 4(i).

5. Miguel Coias (“Coias”) is an individual who, at the times relevant to this suit, was an employee of the United States in the Office of Inspector General of the Department of Veterans Affairs. Despite his clear misconduct and incompetence, Plaintiff has received no notification of Coias’ termination, and Plaintiff believes he continues to be employed by the Government in a role where he can cause horrific damage to law-abiding citizens. Mr. Coias may be served with a summons in this district, where he works and resides, in accordance with Federal Rule of Civil Procedure 4(i) and 4(e). Mr. Coias is being sued in his individual capacity for acts and omissions occurring in connection with duties performed on the United States’ behalf.

## **III. JURISDICTION, VENUE, AND IMMUNITY**

6. Jurisdiction is proper in this Court pursuant to, *inter alia*, 28 U.S.C. § 1346(b), 28 U.S.C. § 1331, and 28 U.S.C. § 1367.

7. The Court has personal jurisdiction over Coias. Coias is a resident of the State of Texas.

8. Venue is proper in this Court pursuant to 28 U.S.C. § 1402(b) because Plaintiff's principal place of business is in Dallas County, Texas, and the acts and omissions occurred in Dallas County, Texas. Venue in this Court is also proper pursuant to 28 U.S.C. § 1391 because the events and omissions giving rise to the claims occurred in Dallas County, Texas. Dallas County, Texas is within this Court's district and division.

9. Congress waived the immunity of the United States in this case in 28 U.S.C. § 1346(b) because this is a suit for money damages against the United States for injury or loss of property caused by the negligent and/or wrongful acts and omissions of employees of the United States while acting within the scope of their office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. As discussed more fully below, Plaintiff has suffered damages as a result of wrongful seizures and prosecutions by one or more employees of the United States that caused Plaintiff's injuries and loss of property.

10. Additionally, Congress waived the immunity of the United States in this case in 28 U.S.C. § 2680(c) because Plaintiff's claim is based on injury or loss of goods, merchandise, or other property, while in the possession of a law enforcement officer. Plaintiff's property was seized for the purpose of forfeiture under a provision of Federal law providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense. Indeed, according to the Government's allegations in the civil forfeiture case, Plaintiff's property was seized pursuant to 18 U.S.C. § 981(b)(2), which is the civil forfeiture statute. The filing of a civil forfeiture case shortly after the seizures also confirms that the property was seized for purposes of forfeiture. The interest of the Plaintiff in its property has not been forfeited. The interest of the Plaintiff has not been remitted or mitigated. Plaintiff has not been convicted of a crime for which the interest of the Plaintiff in the property was subject to forfeiture under a Federal criminal

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forfeiture law. Indeed, no one has even been indicted for a crime in connection with the facts at issue in the Government's purported justifications for the seizures.

11. Additionally, Congress waived the immunity of the United States in this case in 28 U.S.C. § 2680(h) because Plaintiff's claims are with regard to the acts and omissions of investigative or law enforcement officers of the United States Government and Plaintiff's claims arise out of false imprisonment, false arrest, abuse of process, and/or malicious prosecution.

12. Coias does not have qualified immunity. At the time that Coias violated the Fourth Amendment, it had long been clearly established that the intentional or reckless inclusion of false statements in applications for seizure warrants and the intentional or reckless omission of material facts constitute a violation of the Fourth Amendment of the Constitution. Accordingly, Coias does not have qualified immunity for his violations of the Fourth Amendment.

13. On March 7, 2019, Plaintiff sent a letter to several government agencies presenting a claim pursuant to the Federal Tort Claims Act. A copy of that letter and claim is attached hereto as Exhibit 1. In a letter dated March 26, 2019, the United States Department of Justice acknowledged receipt of the claim on March 14, 2019. A copy of that letter is attached hereto as Exhibit 2. The United States has not made final disposition of the claim within six months of March 14, 2019, and Plaintiff deems that failure a denial of Plaintiff's claim for purposes of 28 U.S.C. § 2675.

#### **IV. STATEMENT OF RELEVANT FACTS**

##### **A. RRCC Provided An Excellent Education At A Competitive Price Approved By Multiple Regulators.**

14. The sole shareholder of RRCC, Jonathan Davis (hereinafter, "Mr. Davis"), began his career as an installation helper in the Heating, Ventilation, and Air Conditioning ("HVAC") field before moving into the sales side of the industry. After learning the business, Mr. Davis and

a partner started and operated a HVAC service company. During this time, he noticed a massive gap in the number of well-trained and prepared technicians entering the field.

15. Using his background in the industry, Mr. Davis began planning a school that would allow students to enter the workforce quickly and reduce the dropout rate. Mr. Davis created Retail Ready Career Center, Inc., to offer a unique training program with boot camp style classes that would turn students into technicians in six weeks rather than six months.

16. Prior to the destruction of its business by the Government, RRCC offered classroom and lab-based training regarding HVAC through a program entitled “HVAC Maintenance Ready Tech.” The program had 283 clock hours of instruction and lab-based training. These instructional hours were provided “boot camp” style in an intense six-week program with school days running from 7:30 in the morning until 6:30 in the evening. Students of RRCC received more instructional hours in a shorter period of time than some schools offering competing programs.

17. The school had a graduation rate of 89% and a placement rate of 81.49% in its final audited reporting year. The school could have placed nearly all of its graduates in HVAC jobs but, unfortunately, a significant number of graduates failed drug tests. Nonetheless, the graduation and placement rates were high even compared to non-profit schools, and the school took pride in its graduation and placement rates.

18. The school was beloved by students. At the conclusion of each six-week class, the students completed an extensive survey, and the school consistently received good results. Additionally, several former students have submitted declarations in the civil forfeiture case explaining how the HVAC program improved their lives. Moreover, the school also had a good relationship with employers from all across the country.

19. Initially, the tuition and fees for the program were \$18,810, and tuition and fees were increased to \$20,059 in September 2016. This pricing was comparable to similar programs

(although those programs provided fewer certifications and benefits). The school provided a Student Housing Assistance Program which provided students with hotel accommodations for the duration of the program, daily breakfast, lunch, and daily transportation to the hotel and school. The amount of tuition and fees charged by RRCC had to be approved by the Texas Workforce Commission (“TWC”) and Texas Veterans Commission (“TVC”). Neither the TWC or TVC (or any other regulator) ever complained about the amount charged for the program.

20. Graduates from the program who accepted employment in the HVAC industry could be expected to earn \$21.46 per hour or \$42,920.00 in their first year. Some individuals earned over \$75,000.00 annually. RRCC successfully trained over 2,500 graduates.

**B. The School Operated In A Highly Regulated Environment And Strove To Comply With The Highest Standards.**

21. As noted above, the school was regulated by numerous governmental bodies. The Texas Workforce Commission regulates trade schools and, in order to operate as a school, RRCC had to obtain a license from the TWC. RRCC was subject to periodic reporting requirements to the TWC. Additionally, many of RRCC’s students were veterans that paid for their tuition and fees through the use of their veterans benefits. In order to receive payments from the United States Department of Veterans Affairs (“VA”), the school had to be approved by the VA and the VA’s state approving agency—the Texas Veterans Commission.

**1. The school received the proper approvals from the regulatory agencies.**

22. RRCC received the appropriate approvals from the TWC, TVC, and VA. One of the items that had to be approved by the TWC and TVC was the school catalog. The original catalog for RRCC was approved on or about August 4, 2014—prior to the first class. Among the items approved by the regulators was the amount of the tuition and fees, which was initially \$18,960. Thereafter, the catalog was amended and reapproved several times. The last reapproval

of the school occurred in August of 2017, about a month before the Government destroyed the business.

**2. RRCC was pro-active about ensuring compliance with regulations.**

23. RRCC took compliance with regulations very seriously. One of RRCC's first hires was Robert Saunders as General Counsel and Chief Compliance Officer. Additionally, RRCC employed several "Compliance Officers" to oversee compliance.

24. RRCC received almost no training from the TVC or VA on how to comply with applicable regulations. Indeed, the only training received in the first year of operations was a forty-five minute session on how to "certify" a student in the VA systems. Certification was the process by which the school would provide the required information to notify the VA that a student was enrolled, which would prompt the VA to send payment of tuition and fees to the school for that student. While RRCC followed the training provided, the VA's process was flawed. In particular, it was fairly common for a student to cancel enrollment or not appear for classes after certification; however, the VA would nonetheless pay for that student's tuition and fees. During the three year operation of the school, RRCC returned \$6,887,030.64 to the VA that was overpaid due to such cancellations. If RRCC was interested in defrauding the Government, it could have retained the overpaid funds.

25. Because many of the regulations were designed for educational institutions using semester or term sessions rather than six-week sessions, there were numerous ambiguities or issues with how to comply. Mr. Saunders would constantly raise questions with the TVC and VA about how rules applied to RRCC and what needed to be done to comply. **Mr. Saunders' proactive approach was so intense that the regulators imposed a limit on how frequently Mr. Saunders could contact them.**

26. The governmental authorities regulating RRCC had the right to request various types of information from RRCC and to perform inspections and audits. RRCC had a history of promptly responding to such requests for information. Additionally, RRCC was subject to three formal audits from the TWC and two formal audits from the TVC/VA. Moreover, TVC and VA officials stopped by the school on an informal basis.

**3. At the time of its destruction, RRCC had voluntarily imposed higher standards than required by the regulating agencies.**

27. RRCC offered a “non-college degree program” and, thus was considered an “NCD” school. In the industry, NCD schools are contrasted with “Institutes of Higher Learning” or “IHL” schools. Both NCD and IHL schools are eligible to receive money from students paying with their VA benefits; however, only IHL schools can receive payments from other federal education programs such as Pell Grants, Stafford Loans, and other programs under the Higher Education Act. In order to become an IHL, a school must be “accredited” by an accrediting body.

28. The business plan for RRCC was to become an IHL. As such the school needed to become “accredited” and meet the standards of an accrediting body. Those standards generally exceeded the standards imposed on RRCC by regulatory authorities governing NCD programs. Although RRCC had not begun the accrediting process when the Government decided to destroy the school, RRCC had already implemented compliance standards in excess of those required by the TWC, TVC, and/or the VA.

29. Mr. Davis believed that becoming an IHL would make RRCC considerably more valuable as a company. Mr. Davis recognized the importance of ensuring compliance with all governmental requirements because failing to comply with the regulations would be detrimental to securing IHL status. Defrauding the Government was the exact opposite of RRCC’s objective.

**C. RRCC Passed Its Audits By Regulators And Was Reapproved Shortly Before Being Destroyed By The Government.**

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30. On June 1, 2016, Aerial Riley with the VA conducted an in-person audit at RRCC's facility. She audited RRCC's compliance with numerous rules. At the conclusion of the audit, Mr. Davis asked Ms. Riley if RRCC was doing a poor job at compliance. She said that, with the exception of two minor issues, RRCC's compliance was typical for a school with one year of operation. She also stated that once she completed her audit that the VA would not "second guess" anything occurring prior to the audit, and that the school should consider all preceding events as "closed."

31. On June 8, 2017, another audit by the VA and TVC was conducted. Unbeknownst to RRCC, a former employee who had been fired for stealing from the company had filed a complaint with the TVC, and RRCC was under investigation. That investigation is likely why the Director of the Texas Veterans Commission personally conducted the audit. She made full use of her powers by randomly grabbing papers off desks, searching file cabinets, and conducting interviews. After the audit was concluded, RRCC received a perfect score for compliance, and the Director of the TVC stated in a letter that "[w]e believe the VA-supported students at Retail Ready Career Center, Inc. are being well served."

32. In conjunction with the audit, the VA looked very closely at RRCC's compliance with the "85/15 rule". The rule is complicated but, in general terms, provides that the VA should not pay for more than 85% of the students enrolled in an educational program. The VA requested and RRCC provided very specific information about its compliance. The VA blessed and approved RRCC's compliance with the 85/15 rule in July of 2017.

33. After completing all of its due diligence, RRCC was reapproved by the TVC on August 7, 2017. Less than two months later, the business had been destroyed by the Government.

**D. Coias (And Possibly Other Employees Of The United States) Deliberately Or Recklessly Misled Magistrate Judges Into Issuing Seizure Warrants.**

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34. Coias is an immigrant from Portugal who holds un-American views towards our free enterprise system. Indeed, his hostility to business is so pronounced that he believes that a diary entry in which Mr. Davis states a desire to become rich through starting a business is a “smoking gun” of Mr. Davis’ criminal intent. It is shocking that someone with such attitudes was hired by the Government. Coias worked for the Secret Service during the Obama administration and transferred to the Office of Inspector General of the VA in December of 2016. It is unclear if he transferred to the VA for the purpose of harming veterans or if that was merely the effect.

35. Coias had been employed for about ninety days when the investigation of RRCC by the OIG of the VA began. Coias wanted to make a name for himself, and what better way to do that than by taking down the biggest recipient of VA money in the State of Texas. Other employees of the VA supported Coias’ efforts to destroy a business that was being *too successful in training veterans for needed jobs*. The fact that the investigation was prompted by an indicted thief and that RRCC had an exemplary compliance record would not deter Coias from his selfish objectives.

36. Coias teamed up with David Jarvis (“Jarvis”), an Assistant U.S. Attorney for the Northern District of Texas. Jarvis has a reputation for unethical conduct that has caused otherwise innocent individuals to be sent to jail for “process crimes.” Jarvis was a good partner for Coias because he has little concern for accuracy or truthfulness. Indeed, based on information and belief, Jarvis was transferred out of the Fort Worth Division to the Dallas Division because he misled a judge one too many times.

37. Coias and Jarvis worked together to submit fraudulent applications for seizure warrants in an effort to take RRCC’s property and thereby destroy RRCC’s business. In the bizarre

world of civil forfeiture, RRCC is not permitted to see the applications for the seizure warrants and Coias' supporting affidavits because *no one has been indicted for a crime*. If someone had been indicted, then there would be an opportunity to see and disprove the testimony of Coias. However, since everyone is innocent of any wrongdoing, RRCC is still in the dark about the exact wording of the submissions in support of the applications for warrants made by Coias and perhaps other employees of the United States.

38. Nonetheless, several sources of information point to the conclusion that Coias and others deliberately misled the judges who signed the warrants. One of those sources of information is a meeting shortly after the seizures involving Coias, Jarvis, Mr. Davis' attorney, and an attorney for Mr. Saunders. Coias made a presentation, and it is reasonable to assume that the erroneous theories and false statements in the presentation also appeared in the applications for a warrant submitted not long before the meeting. Additionally, RRCC has access to the original complaint for forfeiture and the Government's three amended complaints. RRCC also has access to Coias' affidavits in support of the Government's second and third amended complaints. While the Government's position has shifted slightly over time, the fraudulent nature of those filings is likely to be indicative of the fraudulent nature of Coias' affidavits in support of the warrants. Indeed, when preparing the affidavit that was attached to the Third Amended Complaint, Coias deliberately removed exculpatory facts found in his previously submitted affidavit. If Coias was willing to deliberately mislead the Court in a contested proceeding, he certainly would have been willing to do it in a secret, *ex parte* proceeding.

39. In his affidavit(s) in support of the warrants to seize Plaintiff's property, Coias made false statements of fact regarding the source of Plaintiff's revenue with the intent to deceive the magistrate. In particular, Coias falsely stated that Plaintiff's funds were the proceeds of fraud.

Coias purports to have reviewed RRCC's bank statements and VA records. The bank statements

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make clear that each payment by the VA was for tuition and fees for a particular student, which the VA's records also confirm. It is undisputed and indisputable that RRCC provided the agreed upon services for the price approved by three government regulators—including the VA. No employee of the United States—including Coias—has ever questioned the quality of the services provided or whether the United States got what it paid for. Coias knew that his statement that Plaintiff's funds were the proceeds of fraud was false at the time he included it in his affidavit in support of a seizure warrant and in all his affidavits thereafter. Had the magistrate known that the funds were earned from lawful services rendered at an approved price, no warrant would have issued because probable cause would not have been erroneously found to exist.

40. In his affidavit(s) in support of the warrants to seize Plaintiff's property, Coias with the assistance of Jarvis made false statements of law with the intent to deceive the magistrate. The legal theories in Coias' affidavit filed on May 24, 2018 in the civil forfeiture case match the legal theories in the Original Complaint for forfeiture filed on October 30, 2017. However, *four of the seven legal theories in Coias' affidavit are not included in the permissible grounds for forfeiture in 18 U.S.C. § 981(a)! The two theories with the lowest mens rea requirements, which Coias was clearly attempting to prove—18 U.S.C. § 1031 and 18 U.S.C. § 1001—are among the theories for which forfeiture is NOT permitted!* By including impermissible theories in the application for the seizure warrants that had lower *mens rea* requirements than the theories authorized by Congress, Coias and Jarvis misled the magistrate and evaded scrutiny of the affidavits for the "specific intent" requirements of the other theories. Had the magistrate only been presented with the theories authorized by law, no warrant would have issued because there was no evidence of specific intent and thus probable cause would not have been erroneously found to exist. Coias and Jarvis either intentionally included the impermissible theories or were so reckless

that they did not even bother to check the statutes before destroying RRCC. Coias and Jarvis committed fraud on the Court to destroy RRCC—pure and simple.

41. In his affidavit(s) in support of the warrants to seize Plaintiff's property, Coias with the assistance of Jarvis deliberately or recklessly omitted material aspects of the law with the intent to deceive the magistrate. The primary theory of Coias' allegations was that the school violated the 85/15 rule by using scholarships to meet the 15% requirement. However, Coias failed to inform the magistrate that RRCC's conduct was specifically authorized by the regulations governing the 85/15 rule—particularly, 38 C.F.R. § 21.4201(e)(2)(iv). Had the magistrate been made aware that Coias was "accusing" RRCC of engaging in conduct that was entirely and expressly lawful, no warrant would have issued because probable cause would not have been erroneously found to exist. Coias and Jarvis either intentionally failed to inform the Court of the applicable regulations or were so reckless that they did not even bother to read the regulations that they were accusing RRCC of violating.

42. In his affidavit(s) in support of the warrants to seize Plaintiff's property, Coias deliberately or recklessly omitted material facts with the intent to deceive the magistrate. In particular, *Coias failed to inform the Court that RRCC had recently been audited by the regulators, been found to be compliant on the very issues included in the affidavit, and had been reapproved just weeks before.* The magistrate would undoubtedly have been skeptical that crimes had occurred if she had been informed that the auditors gave RRCC a perfect compliance report after a full audit that occurred after Coias' investigation had begun. However, Coias withheld that fact from the magistrate. Had the magistrate been made aware of the material facts hidden by Coias, no warrant would have issued because probable cause would not have been erroneously found to exist. The omission of the audit and compliance reports from the affidavits had to be deliberate because Coias had to have known what the auditors had done. It would certainly have

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been reckless to seek a seizure warrant without having spoken to the regulators charged with supervising the school's operations.

43. Coias' affidavit(s) in support of the warrants to seize Plaintiff's property likely contain other deliberate or reckless false statements and omissions of material facts. For instance, Coias has repeatedly misstated the amount of VA funds retained by RRCC by failing to mention the over \$6 million voluntarily returned by RRCC when the VA erroneously overpaid. Additionally, *Coias has repeatedly falsely sworn under oath that the funds seized by the Government are traceable to crimes; however, Coias did not even look at the August 2017 and September 2017 bank statements and, thus, could not have even conducted a tracing exercise!*

Coias was undoubtedly equally "loose with the truth" in his affidavits in support of the seizures.

44. *There was never any probable cause to support the warrants for seizure of Plaintiff's property. There was not probable cause before, during, or after the seizures.* Coias and Jarvis knew that there was no probable cause to seize Plaintiff's property, but they nonetheless misled the magistrate into concluding otherwise. If one were to exclude the deliberately or recklessly made false statements in the applications for the warrants and include the deliberately or recklessly omitted material facts, the magistrate would have had no choice but to conclude that there was no probable cause and that no warrant should issue. Coias and Jarvis fraudulently obtained the warrants to seize RRCC's property and, thus, those warrants were invalid.

45. Despite knowing that they had obtained the warrants under false pretenses, Coias, Jarvis, and other employees of the United States proceeded to seize Plaintiff's property and thereby destroy RRCC's business.

**E. Coias And Other Employees Of The United States Used The Fraudulently Obtained Warrants To Cause RRCC To Suffer Injuries And Loss Of Property.**

46. On September 20, 2017, RRCC was in the middle of a six-week session with slightly less than 300 students enrolled. Without warning, notice, or a hearing, dozens of armed agents of the United States conducted a raid on the school. The agents involved in the raid included Coias and employees of numerous agencies including the U.S. Department of Veterans Affairs, U.S. Attorney's Office for the Northern District of Texas, U.S. Department of Justice, U.S. Marshals Service, Federal Bureau of Investigation, and United States Postal Service Office of Inspector General.

47. It is hard to imagine a more disrespectful way to treat our nation's veterans than attacking them while they are in class learning a trade. However, concepts like truth, honor, and justice are foreign to Coias and the others who conducted the raid knowing that RRCC had not violated the law. RRCC had been too successful and grown too large preparing veterans for the workforce, and Coias was determined to make a name for himself within the VA by destroying RRCC.

48. At the beginning of the raid, RRCC was served with process. Employees of RRCC were subjected to embarrassing questions by agents of the United States, and they could watch their jobs being destroyed as Government employees carried off RRCC's records and other property.

49. Coias and other employees of the United States interfered with and deprived RRCC of possession and use of its property. In addition to the property seized at the school, on September 20, 2017, employees of the United States interfered with and deprived RRCC of possession of its funds by utilizing the fraudulently obtained seizure warrants to seize RRCC's funds. Ultimately, the Government seized over \$4.5 million of RRCC's money.

50. Representatives of RRCC asked for the Government to return its property, but the Government refused and failed to do so.

51. As a result of the wrongful acts and omissions of the employees of the United States who directed, assisted, and participated in the seizures of RRCC's property while acting within the scope of their office and employment, RRCC has suffered injuries and loss of property for which it seeks money damages. Indeed, the injuries and damages to RRCC caused by the loss of property were and are severe.

52. The sudden loss and deprivation of its property made RRCC unable to pay its employees (including the teachers and job placement officers). RRCC also suddenly could no longer pay for the housing where the students were staying during their coursework. Unable to complete the six-week session, RRCC announced that it was closing the school and canceling classes. The closure of the school was the only possible and obvious outcome of the seizure of all of RRCC's operating funds. Indeed, as discussed in the next section, forcing the closure of the school was the reason why the fraudulent warrants were obtained. Coias, Jarvis, and others knew that once the school was closed abruptly, the applicable regulations would ensure that the school never reopened.

53. The VA's treatment of the veterans enrolled in the course after the closure of the school was despicable. Most of the students enrolled at the school came from outside the DFW area. Coias, Jarvis, and other employees of the United States refused to release any of the seized funds to pay for the now former students to return home. Unwilling to leave hundreds of veterans homeless and stranded, Mr. Davis utilized credit cards to pay for the return travel. Interest has continued to accrue on that credit card debt as the Government continues—nearly two years later—to unlawfully hold onto RRCC's funds without a legal basis for doing so.

**F. Coias And Other Employees Of The United States Wanted To Destroy RRCC's Business, Which Is Why They Trampled The Constitution And Misled The Court.**

54. Numerous facts support the conclusion that the purpose for the Government's raid and seizures was to destroy RRCC's business. First, the numerous regulations governing RRCC gave the VA and other regulators enormous power over the school. If the Government had legitimate concerns about the operation of the school, it could have refused to pay, conducted another investigation or audit, or exercised any number of regulatory powers. However, Coias and his co-conspirators knew that this approach would not lead to the desired result—the destruction of the school. The regulations provide for due process and are administered by people who know and understand the rules. Because Coias had no case, he knew that following the regulatory process would not lead to his desired results. The Governments' departure from the regulatory process is indicative of the desire to destroy RRCC's business.

55. Second, the intent to destroy Plaintiff's business can be inferred from Coias and others' decision not to use the less destructive path for initiating civil forfeiture proceedings provided by Congress. In particular, 28 U.S.C. § 983(j)(3) provides for temporary restraining orders. If Coias or other Government employees actually believed that *ex parte* relief was necessary to protect the Government's interests, they could have secured a temporary restraining order. Obviously, a bank would comply with a temporary restraining order so the funds seized from RRCC would have been adequately preserved without a seizure. Similarly, Coias and other employees of the VA knew that RRCC's long history of compliance would suggest that RRCC would have complied with a temporary restraining order. However, this approach had a fatal flaw for Coias' objectives—due process. Under 28 U.S.C. § 983(j)(3), RRCC would have been entitled to a hearing at the "earliest possible time." Coias knew that his case could not withstand any scrutiny or a hearing in which the facts he was hiding from the Court could be presented.

Accordingly, Coias and the other employees of the United States chose not to follow Congress' intended scheme for civil forfeiture proceedings because that approach would not allow them to destroy RRCC.

56. Third, the timing of the seizures also supports the conclusion that the objective of Coias and other employees of the United States was to destroy RRCC's business. On September 20, 2017, RRCC was approximately half-way through a six-week session with about 300 students—most of whom were veterans. If Coias cared about veterans, the raid and seizures would have been scheduled in between the school's classes. The fact that the seizures happened in the middle of the session meant that the intent was to cause maximum pain. RRCC had already incurred expenses from the class which could not be paid due to the seizure of its funds, and RRCC could not finish the class because it no longer had the funds to pay the teachers and vendors. Indeed, there may be no clearer indication of the mean-spirited and malicious nature of Coias and his co-conspirators than their willingness to strand hundreds of veterans far from home by ruining their educational training mid-session and preventing RRCC from being able to pay for their housing.

57. Fourth, Coias' malicious conduct after the initial seizures further confirms that the objective was to destroy RRCC's business. After the initial seizures and the forced closure of the school, RRCC's owner informed Coias and other employees of the United States that he intended to sell some of his personal property and use the funds to reopen the school. Coias and others immediately took action to seize Mr. Davis' personal property so that he could not reopen the school. The fact that Coias and his co-conspirators did not seize Mr. Davis' property until immediately after he proposed reopening the school makes clear that the purpose for seizing RRCC's property was to destroy RRCC's business.

58. No law enforcement officer acting in good faith would have misled a Court; deprived RRCC of regulatory, statutory, and Constitutional due process; and intentionally harmed hundreds of veterans to make a name for himself. The misconduct of Coias and other employees of the United States is truly unconscionable.

**G. The Malicious Misconduct Of Coias And Other Employees Of The United States Continued After The Unlawful Seizures.**

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59. The malice and misconduct of Coias and other employees of the United States did not end with the destruction of RRCC's business. Having succeeded in destroying RRCC by detaining and taking possession of its property, Coias and other employees of the United States began the cover-up of their misdeeds. Coias and others concocted a "criminal investigation." Coias and Jarvis also convinced other employees of the United States to initiate a bogus civil forfeiture case in the hopes of forcing criminal confessions by depriving those associated with RRCC of funds that are rightfully theirs.

**1. Coias and others used a bogus "criminal investigation" in an attempt to hide and justify their misconduct.**

60. The purpose of the concocted criminal investigation is to cover-up the misdeeds of Coias and other employees of the United States. This "investigation"—which has been pending almost as long as RRCC's school was in operation—would produce no indictments because there is no probable cause to support such an indictment. Indeed, Coias, Jarvis, and other employees of the United States would not even ask the grand jury for an indictment because evidence of a crime is so lacking that they are afraid a rare "no bill" might be issued by the grand jury. Coias and others have been able to avoid Congressional inquiries into their misconduct by claiming that there is an "investigation" ongoing. Similarly, the conclusion of the civil forfeiture case has been delayed through false assertions that the "investigation" is ongoing.

61. Coias' and Jarvis' knowledge that no crime had occurred was confirmed during the raids on RRCC's campus. More precisely, the interviewees and seized records confirmed that no wrongdoing had occurred. Nonetheless, Coias and Jarvis thought they could still coerce a confession to a minor crime in order to provide a fig leaf justification for their misconduct. Each time that Mr. Davis refused to confess to a crime that he did not commit, Coias obtained seizure warrants for more property. *When seizing Mr. Davis' property provided insufficient to coerce a confession, Coias obtained warrants to seize Mr. Davis' girlfriend's property!* In other coercive attempts, Coias sought to seize property belonging to Mr. Davis' sister's business and the houses in which Mr. Davis' mother and aunt had been living.

62. When improper seizures proved ineffective in forcing a confession, Coias and Jarvis decided to utilize a different tactic. Several non-lawyer employees of the Office of Inspector General of the VA reviewed the documents seized from RRCC. The attorney-client privileged materials that Coias received through that deliberately faulty process were still insufficient to identify a crime. Accordingly, Jarvis was commissioned to mislead another judge through an unlawful process so that Coias could receive hundreds of RRCC's attorney-client communications. Coias then transferred at least some of those privileged documents to Beverly Chapman, the assistant U.S. attorney handling the civil forfeiture case. Despite having improperly viewed RRCC's privileged communications, Coias refused to recuse himself. Allowing a new investigator to come in would expose Coias' crooked nature and misconduct.

63. When that scheme failed, Coias and Jarvis turned to the old standby of unethical prosecutors—offering immunity in exchange for testimony. However, no one accepted an offer of immunity because no one was willing to perjure themselves to provide the testimony that Coias and Jarvis needed to support their false theories.

64. RRCC understands that Coias and Jarvis have done essentially nothing on their “investigation” for at least six months, yet the “investigation” is still being used to delay the resolution of the civil forfeiture case. Who knows what they will try next to keep the bogus “investigation” alive.

**4. Employees of the United States maliciously prosecuted a civil forfeiture case.**

65. Coias and Jarvis knew that the civil forfeiture process is extremely slow and unfair to property owners. Indeed, that was one of the reasons that Coias and Jarvis pursued seizures for purposes of civil forfeiture instead of the more appropriate regulatory and statutory processes. By initiating a civil forfeiture case and delaying its resolution, Coias and Jarvis could put pressure on those associated with RRCC in the hopes of obtaining a false confession. It is not clear who Coias and Jarvis spoke to in order to convince the U.S. Attorneys’ Office to file a civil forfeiture case; however, assistant U.S. Attorney Joseph Magliolo (“Magliolo”) was assigned to do the dirty work of prosecuting a bogus civil forfeiture case.

66. The Government filed its Original Complaint for Forfeiture on October 30, 2017. Coias, Jarvis, and Magliolo knew that the claims for forfeiture had no merit and that exposure of the Government’s contentions would only cause embarrassment for them. Accordingly, the Original Complaint for Forfeiture has no publicly available factual allegations. Instead, the Government filed its allegations under seal to hide them from RRCC, the press, and Congress.

67. Judge Sidney Fitzwater was the initial judge assigned to the civil forfeiture case, which has case number NO. 3:17-CV-2989 and, nearly two years later, is still pending in the U.S. District Court for the Northern District of Texas. The case is currently on its fifth judge with numerous dispositive motions pending—some of which have been pending for eleven months and the “newest” of which has been pending for over six months. The extreme delay in the resolution

of the case is a textbook example of the need for Congressional reform of the civil forfeiture regime.

68. RRCC was served with legal process in the civil forfeiture proceeding. On December 4, 2017, RRCC and the other property claimants filed motions to dismiss for failure to state a claim. Recognizing the deficiency in the Government's claims, on December 14, 2017, Magliolo filed a First Amended Complaint on behalf of the Government, which mooted the initial motions to dismiss. Magliolo continued to hide the factual allegations in a sealed affidavit. On December 29, 2017, RRCC and the other property claimants filed motions to dismiss the First Amended Complaint.

69. On January 8, 2018, the parties filed a Joint Scheduling Proposal. RRCC requested a trial date in August 2018, nearly a year after the seizures of property occurred. The Government suggested a trial date of December 2018 or later. Although the Government's reasoning for a delay in trial was premised on the need to gather information, the Government conducted no discovery between the Rule 26(f) conference on December 18, 2017 and August 2018. Even then, the due date for some of the discovery was after the discovery deadline in the scheduling order. In short, it was apparent as early as January 2018 that the sole purpose for the civil forfeiture case was delay.

70. On April 26, 2018, the Court granted the motions to dismiss the First Amended Complaint but granted the Government leave to amend. On May 24, 2018, the Government filed its Second Amended Complaint, which contained an affidavit executed by Coias. Thus, eight months after the unlawful seizures, RRCC was finally given notice of the purported basis for the seizures and forfeiture. As discussed above, Coias' affidavit contained numerous false statements and material omissions.

71. Moreover, Coias' affidavit attached to the Second Amended Complaint definitively showed the absence of any basis for forfeiture. As noted above, most of the theories in Coias' affidavit were not included in the statutory list of grounds for forfeiture. Of the statutorily permitted "crimes" that Coias sought to show, all were "specific intent" crimes. In other words, Coias had to show that someone intentionally broke the law. However due to Coias' total incompetence, the allegations that Coias asserted to prove "bad" intent actually showed affirmative intent to obey the law. Coias "accused" RRCC of using scholarships to meet the 15% requirement of the 85/15 rule. Of course, the regulations governing the 85/15 rule explicitly permit and, some would say, encourage the use of scholarships for that purpose. Thus, Coias' central allegation against RRCC, which Coias had used to mislead the magistrate judge into permitting the seizures, was that RRCC engaged in conduct that was expressly and entirely lawful.

72. RRCC and the other claimants again filed motions to dismiss. Magliolo apparently chose to distance himself from the clearly untenable case and decided to withdraw. Assistant U.S. Attorney Beverly Chapman was assigned to replace Magliolo. She, like Coias and Jarvis, undoubtedly knew that there was no probable cause for continuing the civil forfeiture case; however, senior officials in the U.S. Attorneys' Office—including possibly U.S. Attorney Erin Nealy Cox—chose to continue the bogus civil forfeiture case.

73. On August 28, 2018, the Court again granted the motions to dismiss but again granted the Government leave to amend. On September 25, 2018, the Government filed its Third Amended Complaint. Coias again submitted an affidavit containing false statements and material omissions. Indeed, Coias had strategically edited his prior affidavit to exclude the exculpatory content identified by RRCC in its prior motion to dismiss. Therefore, it is indisputable that at this juncture that Coias was deliberately seeking to mislead the Court.

74. RRCC and the other property claimants again filed motions to dismiss because the Government still had not stated a claim. Eleven months later, those motions to dismiss are still pending.

75. After the close of discovery, RRCC and the other property claimants filed motions for summary judgment on November 8, 2018. RRCC affirmatively disproved the Government's claims forfeiture—which the Government could not even plead adequately. Ten months later, the Government still has not marshalled any evidence in response to the motions for summary judgment. It is plain as day that the civil forfeiture case is being prosecuted maliciously and without probable cause.

76. The Supreme Court has held that the Due Process Clause of the Fifth Amendment imposes a “speedy trial” requirement in a civil forfeiture case analogous to the “speedy trial” requirement imposed on criminal trials pursuant to the Sixth Amendment. On February 20, 2019, RRCC and the other property claimants filed motions to dismiss for failure to bring the civil forfeiture case to trial within the deadlines imposed by the Fifth Amendment. The motion showing that the civil forfeiture case has been unconstitutionally delayed has itself been pending for almost seven months without ruling.

77. In February 2019, Judge Fitzwater recused himself. Thereafter, Judge Lindsay, Judge Fish, and Judge Scholer were assigned and then unassigned to the case. Currently, the case is pending before the recently appointed Judge Brantley Starr.

78. Thus, as we approach nearly two years since the seizures, RRCC continues to be deprived of its property without trial, without hearing, without indictment, without evidence, and without the Government even being able to state a claim. Numerous employees of the United States, including Coias, Jarvis, Chapman, and Cox, know that there is no basis for continuing the civil forfeiture case, yet no dismissal has occurred. The malfeasance and nonfeasance shown by  
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all levels of the U.S. Attorneys' Office for the Northern District of Texas and Office of Inspector General of the U.S. Department of Veterans Affairs is an outrage.

**H. The Damage Done**

79. By taking possession of and detaining RRCC's property, Coias and other law enforcement officers of the United States caused RRCC extreme injury and loss of property. Shortly before the improper seizures, there were discussions of selling RRCC's business for \$250 million. On the lower end of the valuation scale, there was a letter of intent to buy 9% of RRCC's shares for \$12 million—which would be a \$133 million valuation without accounting for the discount inherent in an illiquid, minority stake. RRCC's loss of property from the seizures has caused its value to drop to zero (or possibly less than zero). Additionally, RRCC's loss of property and the Government's possession thereof has caused millions, if not tens of millions, of dollars in profits to have been lost every year since the seizure. RRCC brings this suit to recover for these injuries and damages stemming from the loss of RRCC's property.

80. However, the damage caused by the Government's misconduct goes far beyond the bottom line. RRCC trained thousands of graduates to become HVAC technicians—most of whom were veterans. Thousands of veterans and non-veterans have been denied the opportunity to participate in RRCC's training program as a result of the Government's misconduct. The nearly three hundred students who were taking classes when the Government raided the school have been particularly victimized.

81. Students and potential students are not the only victims of this travesty. Dozens of employees lost their jobs and never received their final pay-checks because the Government refused to release the funds to do so. Vendors—most of whom are small, local businesses—are collectively owed over a million dollars for services rendered and have had to carry that loss for years because the Government refuses to release the funds it has seized. HVAC employers have

complained about the loss of a reliable source of qualified technicians, and countless citizens have undoubtedly suffered a little longer on hot days because of a lack of such technicians.

82. Yet the greatest harm from the Government's misconduct is the loss of faith in our legal system that all who hear of this case experience. It should not be possible in a civilized nation for a highly-regulated, successful, and well-respected school to be destroyed by the secret, fraudulent, and *ex parte* testimony of one man. While Coias should be punished for his egregious misconduct, this is but one example of the Government's many abuses of the civil forfeiture regime. The Courts must step in to hold the Government accountable, and an award to RRCC of hundreds of millions in entirely justified compensatory damages will hopefully send a much needed wake-up message to all of those who would abuse the law.

## **V. CLAIMS**

### **A. Count 1: Federal Tort Claims Act – Trespass / Conversion (Against The United States)**

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83. Plaintiff repeats and incorporates by reference the preceding paragraphs as if set forth herein.

84. Coias and other employees of the United States seized Plaintiff's property without reasonable cause or probable cause.

85. Historically, the cause of action asserted against officials who conducted unreasonable seizures was "trespass" or "trespass to chattels"—*i.e.* the interference with the possession or use of property. This cause of action appears to continue to exist in Texas law but is generally overshadowed by the cause of action for conversion which is very similar. RRCC asserts a claim against the United States under both theories.

86. Plaintiff owned, possessed, and/or had a right to immediate possession of the funds and other property seized by the employees of the United States.

87. The property seized by employees of the United States was personal property.

88. The employees of the United States wrongfully exercised dominion and control over Plaintiff's property and interfered with Plaintiff's use and possession of the property.

89. Plaintiff has been injured and suffered damages as a result of the trespass and conversion of Plaintiff's property, including the destruction of its business and loss of profits.

90. If Coias and the other employees of the United States had been private persons, those employees would be liable to Plaintiff for money damages for the injuries and loss of property caused by their tortious conduct. Accordingly, the United States is liable for such misconduct pursuant to the Federal Tort Claims Act, and Plaintiff seeks an award of monetary damages against the United States.

**B. Count 2: Federal Tort Claims Act – Abuse of Process (Against The United States)**

91. Plaintiff repeats and incorporates by reference the preceding paragraphs as if set forth herein.

92. Under Texas law, individuals are liable for abuse of process.

93. Plaintiff and Plaintiff's property was served with seizure warrants and other documents constituting legal process by employees of the United States.

94. The seizure warrants were improperly used to accomplish improper purposes—namely to destroy Plaintiff's business and to compel individuals to confess to a crime that never occurred. By seizing Plaintiff's property and destroying Plaintiff's business, Coias and other governmental employees assumed that they could “bleed out” the individuals involved in the business and force them to confess to crimes that never occurred. Indeed, government officials routinely abuse the civil forfeiture process in this way. Moreover, by destroying Plaintiff's business, the Department of Veterans Affairs could stop paying for a highly successful program that was costing the department a lot of money. Indeed, the principal focus of Coias' presentation

after the seizure was his “proof” that RRCC was the largest recipient of VA funds in the State of Texas. Coias was very proud of destroying a business that was receiving so much VA money, indicating that destroying the business was the purpose of the seizures. Moreover, when the owner of RRCC indicated that he would be selling some of his cars in order to continue funding RRCC’s business, Coias and other employees of the Government immediately secured fraudulent seizure warrants for the cars. This further confirms that the purpose of the seizures was to destroy Plaintiff’s business.

95. As a result of the Government’s abuse of process, Plaintiff has been injured and suffered damages, including the destruction of its business and loss of profits.

96. If Coias and the other employees of the United States had been private persons, those employees would be liable to Plaintiff for money damages for the injuries and loss of property caused by their tortious conduct. Accordingly, the United States is liable for such misconduct pursuant to the Federal Tort Claims Act, and Plaintiff seeks an award of monetary damages against the United States.

**C. Count 3: Federal Tort Claims Act – Wrongful Attachment / Garnishment / Sequestration (Against The United States)**

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97. Plaintiff repeats and incorporates by reference the preceding paragraphs as if set forth herein.

98. Under Texas law, individuals are liable for wrongful attachment, wrongful garnishment, and wrongful sequestration.

99. The seizures conducted by Coias and other employees of the United States have characteristics of attachment, garnishment, and sequestration, and it is not clear which theory is most analogous to the seizures at issue in this case. However, given that the seizures were

wrongful and based on deliberate false statements by Coias and other employees of the Government, liability would attach under at least one if not all of the theories.

100. Plaintiff has been injured and suffered damages as a result of the wrongful attachment, wrongful garnishment, and/or wrongful sequestration of Plaintiff's property, including the destruction of its business and loss of profits.

101. If Coias and the other employees of the United States had been private persons, those employees would be liable to Plaintiff for money damages for the injuries and loss of property caused by their tortious conduct. Accordingly, the United States is liable for such misconduct pursuant to the Federal Tort Claims Act, and Plaintiff seeks an award of monetary damages against the United States.

**D. Count 4: Federal Tort Claims Act – False Arrest / False Imprisonment (Against The United States)**

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102. Plaintiff repeats and incorporates by reference the preceding paragraphs as if set forth herein.

103. Under Texas law, individuals are liable for false arrest and false imprisonment.

104. Liability for false imprisonment and false arrest extends to anyone who directs, requests, or participates in the arrest or detention. Coias and numerous other employees of the United States directed, requested, and participated in the willful detention and arrest Plaintiff's property.

105. The detention and arrest of Plaintiff's property was done without Plaintiff's consent.

106. The detention and arrest of Plaintiff's property was done without legal authority or justification. Indeed, the seizure warrants were issued based on deliberate or recklessly false statements and material omissions by Coias in the applications for the warrants that caused the

Court to incorrectly conclude that there was probable cause and, thus, the seizure warrants were invalid. Coias and other employees involved in the seizures knew that there was not probable cause to support the seizure warrants but proceeded anyway.

107. Plaintiff has been injured and suffered damages as a result of the false arrest and false imprisonment of Plaintiff's property, including the destruction of its business and loss of profits.

108. If Coias and the other employees of the United States had been private persons, those employees would be liable to Plaintiff for money damages for the injuries and loss of property caused by their tortious conduct. Accordingly, the United States is liable for such misconduct pursuant to the Federal Tort Claims Act, and Plaintiff seeks an award of monetary damages against the United States.

**E. Count 5: Federal Tort Claims Act – Malicious Prosecution (Against The United States)**

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109. Plaintiff repeats and incorporates by reference the preceding paragraphs as if set forth herein.

110. Under Texas law, individuals are liable for malicious prosecution.

111. A civil proceeding was initiated and continued against Plaintiff's property—namely, the seizure warrant proceedings and the civil forfeiture case.

112. The proceedings were initiated and continued by and at the insistence of employees of the United States.

113. The employees of the United States acted with malice in initiating and continuing the proceedings. Coias and other employees of the United States wanted to destroy RRCC's business so they initiated and continued the seizure warrant proceedings. Coias and other employees knew that the seizures were improper but wanted to cover up their misconduct and to

coerce confessions to crimes so they decided to initiate and continue the bogus civil forfeiture proceeding rather than return the seized property.

114. The employees of the United States knew that there was not probable cause for the proceedings. Indeed, Coias and others deliberately and/or recklessly misled the magistrate and district court judges by including false statements and omitted material facts in the seizure warrant applications and affidavits in the civil forfeiture case.

115. RRCC anticipates that the civil proceedings will soon be terminated in Plaintiff's favor. Indeed, the Government has never been able to state a claim in that case and the constitutional deadline to bring the case to trial has long passed.

116. RRCC has suffered special injury as a result of the malicious prosecution by the employees of the United States. In particular, RRCC's property has been seized and business destroyed as a result of the malicious prosecution.

117. Plaintiff has been injured and suffered damages as a result of the malicious prosecution, including the destruction of its business and loss of profits.

118. If Coias and the other employees of the United States had been private persons, those employees would be liable to Plaintiff for money damages for the injuries and loss of property caused by their tortious conduct. Accordingly, the United States is liable for such misconduct pursuant to the Federal Tort Claims Act, and Plaintiff seeks an award of monetary damages against the United States.

**F. Count 6: Federal Tort Claims Act – Theft Liability Act (Against The United States)**

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119. Plaintiff repeats and incorporates by reference the preceding paragraphs as if set forth herein.

120. Under the Texas Theft Liability Act, individuals are liable for theft.

121. RRCC was and is the owner and has a possessory right in property taken and seized by employees of the United States.

122. Through the improper seizures, the employees of the United States unlawfully seized and appropriated RRCC's property without RRCC's consent.

123. The employees of the United States appropriated the property with the intent to deprive RRCC of its property.

124. Plaintiff has been injured and suffered damages as a result of the theft by the employees of the United States, including the destruction of its business and loss of profits.

125. If Coias and the other employees of the United States had been private persons, those employees would be liable to Plaintiff for money damages for the injuries and loss of property caused by their tortious conduct. Accordingly, the United States is liable for such misconduct pursuant to the Federal Tort Claims Act, and Plaintiff seeks an award of monetary damages against the United States.

126. Pursuant to the Texas Theft Liability Act, RRCC is also entitled to an award of reasonable and necessary attorneys' fees.

**G. Count 7: *Bivens* – Fourth Amendment Of The Constitution (Against Coias)**

127. Plaintiff repeats and incorporates by reference the preceding paragraphs as if set forth herein.

128. The Fourth Amendment of the United States Constitution provides "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

129. A government official violates the Fourth Amendment when he intentionally or with reckless disregard for the truth includes a false statement in a warrant application. Additionally, a government official violates the Fourth Amendment through an intentional or reckless omission of material facts from a warrant application.

130. As more fully described above, Coias violated the Fourth Amendment of the Constitution by, intentionally and/or with reckless disregard for the truth, including false statements in the applications for the seizure warrants of Plaintiff's property and by intentionally or recklessly omitting material facts in such applications. Absent Coias' violations of the Fourth Amendment, the Court would not have issued the seizure warrants because probable cause was lacking.

131. Knowing that the seizure warrants lacked probable cause and were obtained solely as a result of his misconduct, Coias then orchestrated and personally conducted seizures of Plaintiff's property in violation of the Fourth Amendment.

132. At the time that Coias violated the Fourth Amendment, it had long been clearly established that the intentional or reckless inclusion of false statements in applications for seizure warrants and the intentional or reckless omission of material facts constituted violations of the Fourth Amendment of the Constitution. Accordingly, Coias does not have qualified immunity for his violations of the Fourth Amendment.

133. As a result of the seizures conducted in violation of the Fourth Amendment, Plaintiff has been severely damaged, including the loss of profits and the destruction of its business. Plaintiff seeks actual and punitive damages against Coias to remedy his violations of the Fourth Amendment.

134. This case is closely analogous to *Bivens*, and the factors weigh more heavily in favor of granting relief to Plaintiff here than was the case in *Bivens*. In *Bivens*, the same

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Constitutional right was at issue—the right under the Fourth Amendment to be free from seizures in the absence of a warrant supported by probable cause. The principle difference here is that the seizing official—Coias—did so after deliberately obtaining an improper seizure warrant under false pretenses.

135. If a damages remedy is available against an official that conducts a seizure without obtaining a warrant, surely damages should be available when an official conducts a seizure after deliberately misleading a judge into improperly granting him a warrant for that seizure. Coias has made the judicial branch an accomplice in a wrongful seizure and, surely, the judicial branch is not without authority to hold Coias individually accountable for such misconduct. Obviously, the judiciary is best positioned to determine whether a government official has engaged in constitutional misconduct before a court, and there are no special factors suggesting that Congress intended for the judiciary not to police those who come before the court until Congress specifically authorizes relief. Accordingly, a *Bivens* remedy is available in this case.

## **VI. JURY DEMAND**

136. Plaintiff demands a trial by jury on all issues so triable.

## **VII. PRAYER AND REQUESTS FOR RELIEF**

WHEREFORE, Plaintiff Retail Ready Career Center, Inc. respectfully requests that the Court grant Plaintiff a judgment against the Defendants awarding:

- a) Actual monetary and punitive damages;
- b) Pre-judgment and post-judgment interest;
- c) Attorneys' fees and costs incurred in connection with this suit; and
- d) All other appropriate relief to which Plaintiff is entitled.

Dated: September 16, 2019

Respectfully submitted,

**TERNAN LAW FIRM, PLLC**

By: /s/ Jack G. B. Ternan  
Jack G. B. Ternan  
State Bar No. 24060707  
[jt@ternanlawfirm.com](mailto:jt@ternanlawfirm.com)  
TERNAN LAW FIRM, PLLC  
1400 Preston Road, Suite 400  
Plano, Texas 75093  
Telephone: (972) 665-9939  
Facsimile: (972) 476-1361

**ATTORNEY FOR PLAINTIFF RETAIL  
READY CAREER CENTER, INC.**

# **Exhibit 1**



March 7, 2019

**VIA CERTIFIED U.S. MAIL RRR**

U.S. Department of Veterans Affairs  
Mr. Jeffrey Stacey  
Office of Chief Counsel  
P.O. Box 25126  
Denver, CO 80225

U.S. Department of Veterans Affairs  
Mr. Jeffrey Stacey  
Office of Chief Counsel  
155 Van Gordon, Suite 551  
Lakewood, CO 80228

U.S. Attorney's Office  
Northern District of Texas  
Ms. Erin Nealy Cox  
1100 Commerce Street, Third Floor  
Dallas, Texas 75242-1699

U.S. Department of Justice  
Mr. William Barr  
U.S. Attorney General  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

U.S. Marshals Service  
Office of General Counsel  
Crystal Gateway 3,  
15th Floor  
Washington, D.C. 20530-0001

Federal Bureau of Investigation  
Mr. Dana Boente  
Office of the General Counsel  
FBI Headquarters  
935 Pennsylvania Avenue, NW  
Washington, D.C. 20535-0001

Chief Counsel, Torts,  
General Law Service Center  
USPS National Tort Center  
1720 Market Street, Room 2400  
St. Louis, MO 63155-9948

RE: Claim for Damages by Retail Ready Career Center, Inc.

Dear Officials:

I am an attorney, and I represent Retail Ready Career Center, Inc. ("Retail Ready"). A Declaration of Jonathan Davis establishing my authority to represent Retail Ready Career Center, Inc. in connection with this claim is attached to this letter as Exhibit A.

My client operated a successful school that trained thousands of students, including thousands of veterans, to be technicians in the Heating, Ventilation, and Air Conditioning ("HVAC") industry. The school was beloved by students and employers, and its graduation and placement rates were outstanding. Moreover, Retail Ready secured the required regulatory approvals and was reapproved again in August 2017 after having been audited.

Despite my client's history of success and compliance, government officials of various agencies began unconstitutionally and wrongfully seizing Retail Ready's property on or about September 20, 2017. Among the property unconstitutionally and wrongfully seized was over \$4.5 million, which constituted all of Retail Ready's funds. The loss of Retail Ready's property through unconstitutional and wrongful seizure caused the closure and destruction of Retail Ready's business.

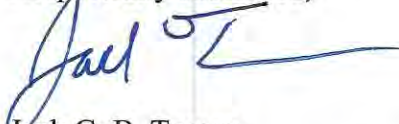
The seizure and/or arrest of Retail Ready's property and raid on its offices was conducted by dozens of governmental officials from a variety of agencies, including the U.S. Department of Veterans Affairs, U.S. Attorney's Office for the Northern District of Texas, U.S. Department of Justice, U.S. Marshals Service, Federal Bureau of Investigation, and United States Postal Service Office of Inspector General. The malicious incompetence of Special Agent Miguel Coias of the Office of Inspector General of the U.S. Department of Veterans Affairs appears to have been the driving force behind this outrageous misconduct and abuse of power; however, all of the named agencies bear at least some responsibility for the destruction of Retail Ready's business.

In a pending proceeding, Ms. Beverly Chapman, Esq. of the U.S. Attorney's Office for the Northern District of Texas suggested that Retail Ready needed to pursue an administrative claim for damages.<sup>1</sup> **Without conceding the necessity of doing so, Retail Ready Career Center, Inc. hereby makes a claim for damages in the amount of \$250 million (\$250,000,000.00) to compensate it for the destruction of its business as a result of the unconstitutional and wrongful loss of its property.** Although Standard Form 95 is not well-suited to a claim of this nature, a completed form is attached to this letter as Exhibit B.

Pursuant to 28 C.F.R. § 14.2(b), you are advised that this claim is being made on multiple agencies: U.S. Department of Veterans Affairs, U.S. Attorney's Office for the Northern District of Texas, U.S. Department of Justice, U.S. Marshals Service, Federal Bureau of Investigation, and U.S. Postal Service.

Please direct any correspondence on this matter to my attention, including any designation of the agency that will be investigating and responding to this claim. If you have any questions or concerns, please do not hesitate to contact me.

Respectfully submitted,



Jack G. B. Ternan

**ATTORNEY FOR RETAIL READY CAREER  
CENTER, INC.**

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<sup>1</sup> See *USA v. \$4,480,466.16 in Funds Seized*, Case No. 18-10801, in the United States Court of Appeals for the Fifth Circuit.

# Exhibit A

**EXHIBIT A - DECLARATION OF JONATHAN DAVIS**

1. My name is Jonathan Davis. I am over 18 years of age, of sound mind, and capable of making this declaration. The facts stated in this declaration are within my personal knowledge and are true and correct.

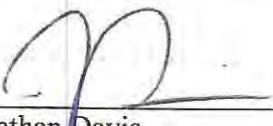
2. I am the President, Chief Executive Officer, sole director, and sole shareholder of Retail Ready Career Center, Inc. ("RRCC" or "Retail Ready"). RRCC is a Delaware corporation that was registered to do business in the State of Texas.

3. Retail Ready Career Center, Inc. has retained Jack G. B. Ternan and the Ternan Law Firm, PLLC to represent it in connection with pursuing claims and counterclaims for damages against the United States in connection with or resulting from the seizure, arrest, and/or detention of Retail Ready Career Center, Inc.'s property. On behalf of Retail Ready Career Center, Inc., I have authorized Mr. Ternan to make a claim on the Government in the amount of \$250 million.

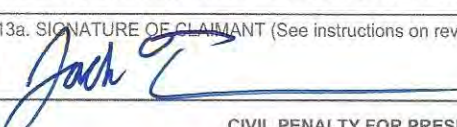
4. As the founder and owner of Retail Ready Career Center, Inc., I am familiar with its financial condition and value. Prior to the Government's seizure of its property, there were discussions about the possible sale price of Retail Ready's business. Given the rapid rate of growth, the business was considered to be extremely valuable. One of the numbers discussed was \$250 million. While I do not know if I would have been willing to sell the business at that price at that time, it is my opinion that a reasonable market value for the company prior to the Government's seizures was \$250 million. As a result of the seizures by the Government, Retail Ready Career Center, Inc. was no longer able to operate, ceased operations, and was destroyed.

5. I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 7, 2019.

  
Jonathan Davis

# **Exhibit B**

<b>CLAIM FOR DAMAGE, INJURY, OR DEATH</b>		<b>INSTRUCTIONS:</b> Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency:  U.S. Department of Veterans Affairs, U.S. Attorney's Office for the Northern District of Texas, U.S. Department of Justice, U.S. Marshals Service, Federal Bureau of Investigation, and U.S. Postal Service			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code.  Retail Ready Career Center, Inc. c/o Jack G. B. Ternan, Esq. Ternan Law Firm, PLLC 1400 Preston Road, Suite 400, Plano, Texas 75093		
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input checked="" type="checkbox"/> CIVILIAN	4. DATE OF BIRTH	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT  Fall 2017	7. TIME (A.M. OR P.M.)	
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).  Beginning on September 20, 2017, various officials from multiple government agencies began unconstitutionally and wrongfully seizing and/or arresting the property of Retail Ready Career Center, Inc., including all of its funds. The unconstitutional and wrongful seizures deprived the company of property necessary for the business's operation and thereby destroyed the Retail Ready Career Center, Inc.'s business.					
9. <b>PROPERTY DAMAGE</b>					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).  N/A					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).  The funds and other property seized are in the possession of the U.S Marshals Service and/or U.S. Attorney's Office for the Northern District of Texas.					
10. <b>PERSONAL INJURY/WRONGFUL DEATH</b>					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.					
11. <b>WITNESSES</b>					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
12. (See instructions on reverse). <b>AMOUNT OF CLAIM</b> (in dollars)					
12a. PROPERTY DAMAGE  250,000,000	12b. PERSONAL INJURY	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights).  250,000,000		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).  			13b. PHONE NUMBER OF PERSON SIGNING FORM  972-665-9939		14. DATE OF SIGNATURE  03/07/2019
<b>CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM</b>  The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			<b>CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS</b>  Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

# **Exhibit 2**



Civil Division, Torts Branch  
Federal Tort Claims Act Staff

*Post Office Box 888  
Benjamin Franklin Station  
Washington, D.C. 20044*

GKJ:HLSwann:hls  
157-16-63435

March 26, 2019

Mr. Jack G. B. Ternan  
Ternan Law Firm, PLLC  
1400 Preston Road, Suite 400  
Plano, TX 75093

Re: Administrative Tort Claim of Retail Ready Career Center, Inc.

Dear Mr. Ternan:

This is in response to your client's administrative tort claim dated March 7, 2019, which you submitted to the Department of Justice (Department). The Department received the claim on March 14, 2019. The Department will be handling your claim as lead agency pursuant to 28 C.F.R. § 14.2(b). All future correspondence concerning this claim should be directed to the Department at the address above. We will contact you if further information is needed.

Very truly yours,

A handwritten signature in blue ink, reading "Hope L. Swann", is positioned above the typed name.

HOPE L. SWANN  
Paralegal Specialist  
Civil Division, Torts Branch